CHAPTER 59
PHARMACY BENEFITS MANAGERS

191—59.1(510B) Purpose. The purpose of this chapter is to administer the provisions of Iowa Code Supplement chapter 510B relating to the regulation of pharmacy benefits managers.

191—59.2(510B) Definitions. The terms defined in Iowa Code Supplement section 510B.1 shall have the same meaning for the purposes of this chapter. The definitions contained in 191—Chapter 58, "Third-Party Administrators," and 191—Chapter 78, "Uniform Prescription Drug Information Card," of the Iowa Administrative Code are incorporated by reference. As used in this chapter:

"Clean claim" means a claim which is received by any pharmacy benefits manager for adjudication and which requires no further information, adjustment or alteration by the pharmacist or pharmacies or the insured in order to be processed and paid by the pharmacy benefits manager. A claim is a clean claim if it has no defect or impropriety, including any lack of substantiating documentation, or no particular circumstance requiring special treatment that prevents timely payment from being made on the claim under this chapter. A clean claim includes a resubmitted claim with previously identified deficiencies corrected.

"Complaint" means a written communication expressing a grievance or an inquiry concerning a transaction between a pharmacy benefits manager and a pharmacy or pharmacist.

"Day" means a calendar day, unless otherwise defined or limited.

"Paid" means the day on which the check is mailed or the day on which the electronic payment is processed by the pharmacy benefits manager's bank.

191—59.3(510B) Timely payment of pharmacy claims.

59.3(1) All benefits payable under a pharmacy benefits management plan shall be paid as soon as feasible but within 20 days after receipt of a clean claim when the claim is submitted electronically and shall be paid within 30 days after receipt of a clean claim when the claim is submitted in paper format.

59.3(2) Payments to the pharmacy or pharmacist for clean claims are considered to be overdue if not paid within 20 or 30 days, whichever is applicable. If any clean claim is not timely paid, the pharmacy benefits manager must pay the pharmacy or pharmacist interest at the rate of 10 percent per annum commencing the day after any claim payment or portion thereof was due until the claim is finally settled or adjudicated in full.

59.3(3) Existing contracts between clients and pharmacy benefits managers shall comply with the requirement that clean claims be paid within 20 or 30 days, whichever is applicable, when such contracts are renegotiated on or after January 1, 2009, but no later than December 31, 2009.

191—59.4(510B) Study. On or before December 31, 2009, the commissioner will examine the feasibility of requiring a 15-day payment schedule for electronically submitted claims. The examination shall include economic impact on pharmacy benefits managers, patients, and Iowa pharmacies.

191—59.5(510B) Complaints.

59.5(1) Each pharmacy benefits manager shall develop an internal system to record and report complaints. This system shall include but not be limited to:

a. Complaints from the pharmacy indicating the reason for the complaint and factual documentation to support the complaint;

b. Contact name, address and telephone number of the pharmacy benefits manager;

c. Contact name, address and telephone number of the pharmacy;

d. Prescription number;

e. Prescription reimbursement amount for disputed claim(s);

f. Disputed prescription claim payment date(s);

g. Plan benefits certificate.

59.5(2) A summary of all complaints as outlined in subrule 59.5(1) received by the pharmacy benefits manager shall be submitted to the commissioner on a quarterly basis within 30 days after the calendar quarter has ended.

191—59.6(510B) Auditing practices.

59.6(1) An audit of the pharmacy records by a pharmacy benefits manager shall be conducted in accordance with the following:

a. The pharmacy benefits manager conducting the initial on-site audit must provide the pharmacy written notice at least one week prior to conducting any audit;

b. Any audit which involves clinical or professional judgment must be conducted by or in consultation with a pharmacist;

c. When a pharmacy benefits manager alleges an overpayment has been made to a pharmacy or pharmacist, the pharmacy benefits manager shall provide the pharmacy or pharmacist sufficient documentation to determine the specific claims included in the alleged overpayment;

d. A pharmacy may use the records of a hospital, physician or other authorized practitioner of the healing arts for drugs or medicinal supplies, written or transmitted by any means of communication, for purposes of validating the pharmacy record with respect to orders or refills of a legend or narcotic drug;

e. Each pharmacy shall be audited under the same standards and parameters as other similarly situated pharmacies audited by the pharmacy benefits manager;

f. The period covered by an audit may not exceed two years from the date on which the claim was submitted to or adjudicated by a managed care company, insurance company, third-party payor, or any pharmacy benefits manager that represents such companies, groups, or a department;

g. Unless otherwise consented to by the pharmacy, an audit may not be initiated or scheduled during the first seven calendar days of any month due to the high volume of prescriptions filled during that time;

h. The preliminary audit report must be delivered to the pharmacy within 120 days after conclusion of the audit. A final written audit report shall be received by the pharmacy within six months of the preliminary audit report or final appeal, whichever is later;

i. A pharmacy shall be allowed at least 30 days following receipt of the preliminary audit report in which to produce documentation to address any discrepancy found during an audit; and

j. The audit criteria set forth in this subrule shall apply only to audits of claims submitted for payment after December 31, 2008.

59.6(2) Notwithstanding any other provision in this rule, the entity conducting the audit shall not use the accounting practice of extrapolation in calculating the recuperation of contractual penalties for audits.

59.6(3) Recuperation of any disputed funds shall occur only after final disposition of the audit, including the appeals process as set forth in subrules 59.6(4) and 59.6(5).

59.6(4) Each pharmacy benefits manager conducting an audit shall establish an appeals process under which a pharmacy may appeal an unfavorable preliminary audit report to the pharmacy benefits manager. If, following the appeal, the pharmacy benefits manager finds that an unfavorable audit report or any portion thereof is unsubstantiated, the pharmacy benefits manager shall dismiss the audit report or said portion without the necessity of any further proceedings.

59.6(5) If, following the final appeal, the pharmacy benefits manager finds that an unfavorable audit report or any portion thereof is found to be substantiated, the pharmacy benefits manager shall already have in place a process for an independent third-party review of the final audit findings. As part of the final appeal process of any final adverse decision, the pharmacy benefits manager shall notify the pharmacy in writing of its right to request an independent third-party review of the final audit findings and the process used to request such a review.

59.6(6) Each pharmacy benefits manager conducting an audit shall, after completion of any review process, provide a copy of the final audit report to the plan sponsor.

59.6(7) This rule shall not apply to any investigative audit which involves fraud, willful misrepresentation, abuse, or any other statutory provision which authorizes investigations relating to but not limited to insurance fraud.

191—59.7(510B) Termination of pharmacy contracts.

59.7(1) A pharmacy or pharmacist shall not be terminated from the network or penalized by a pharmacy benefits manager solely because of filing a complaint, grievance or appeal.

59.7(2) A pharmacy or pharmacist shall not be terminated from the network or penalized by a pharmacy benefits manager due to any disagreement with the decision of the pharmacy benefits manager to deny or limit benefits to covered persons or due to any assistance provided to covered persons by the pharmacy or pharmacist in obtaining reconsideration of the decision of the pharmacy benefits manager.

59.7(3) Termination of contracts between a pharmacy benefits manager and a pharmacy shall include a provision describing notification procedures for contract termination. The contract shall require no less than 60 days' prior written notice by either party that wishes to terminate the contract.

59.7(4) If the pharmacy benefits manager has evidence that the pharmacy or pharmacist has engaged in fraudulent conduct or poses a significant risk to patient care or safety, the pharmacy benefits manager may immediately suspend the pharmacy or pharmacist from further performance under the contract provided written notice of termination is provided to the pharmacy or pharmacist.

59.7(5) Termination of a contract between a pharmacy benefits manager and a pharmacy or pharmacist or termination of a pharmacy or pharmacist from the network of the pharmacy benefits manager shall not release the pharmacy benefits manager from the obligation to make payments due to the pharmacy or pharmacist for services rendered before the contract of the pharmacy or pharmacist was terminated.

59.7(6) Independent third-party review of termination decision. The pharmacy or pharmacist may request an independent third-party review of the final decision to terminate the contract between the pharmacy benefits manager and the pharmacy or pharmacist by filing with the pharmacy benefits manager a written request for an independent third-party review of the decision. This written request must be filed with the pharmacy benefits manager within 30 days of receipt of the final termination decision.

These rules are intended to implement Iowa Code chapters 17A and 514L and Iowa Code Supplement chapter 510B.

[Filed 7/25/08, Notice 5/7/08—published 8/13/08, effective 9/17/08]